

FILED

CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY W.H., DEPUTY

)

)

i

)

)

i

)

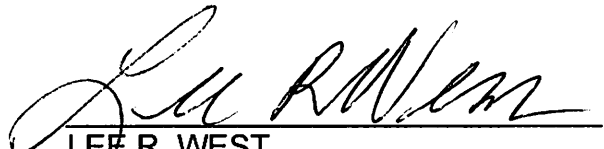
On August 15, 2014, Magistrate Judge Erwin granted McMiller an extension of time to serve the remaining defendant, Claude Chester, see Doc. 102, and he warned McMiller that his failure to serve Chester in the time provided would result in dismissal of his claims against Chester. *See id.* at 3.

McMiller took no action, and on October 6, 2014, Magistrate Judge Erwin issued a fourth Report and Recommendation. He proposed that McMiller's claims against Chester be dismissed without prejudice because McMiller had failed to effect timely service of process under Rule 4(m), F.R.Civ.P. McMiller was advised of his right to object, but no objections to this Report and Recommendation have been filed.

Because McMiller has neither filed proof that Chester has been served, nor shown good cause for his failure to serve this defendant and because another permissive extension of time to obtain service is not warranted under the circumstances, see Espinoza v. United States, 52 F.3d 833 (10th Cir. 1995), the Court, in its discretion,

- (1) ADOPTS the Report and Recommendation [Doc. 108] filed on October 6, 2014;
- (2) DISMISSES McMiller's claims against Chester without prejudice;
- (3) DENIES McMiller's Motion for Appointment of Counsel [Doc. 96] file-stamped July 25, 2014; and
- (4) because no claims remain against any defendant, ORDERS that judgment issue forthwith.

ENTERED this 7th day of November, 2014.


LEE R. WEST
UNITED STATES DISTRICT JUDGE